
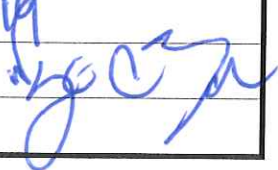
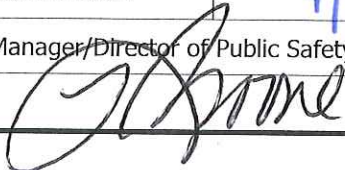
 <b>THE CITY OF NORFOLK</b> POLICE DEPARTMENT		<b>Operational General Order – 425: Interviews</b>	
		Office of Preparation: Office of Support Services (mar)	
		<b>CALEA:</b> 44.23	
LEGAL REVIEW DATE:	8/20/2019	PREScribed DATE:	9/3/19
City Attorney:		City Manager/Director of Public Safety:	
APPROVED BY THE AUTHORITY OF THE CHIEF OF POLICE:			

**Purpose:**

The purpose of this order is to provide procedural guidelines for officers conducting interviews where Miranda warnings are applicable.

**Policy:**

Norfolk Police Department interview procedures are designed so that personnel conducting interviews involving Miranda warnings do so with uniformity.

**Supersedes:**

1. G.O. OPR-425: Interrogations May 14, 2009
2. Any previously issued directive conflicting with this order

**Order Contents:**

- I. Non-Custodial Interviews
- II. Miranda Warnings and Custodial Interviews
- III. When a Suspect Asks to Speak to Officers After Invoking Rights
- IV. Juvenile Interviews

I. Non-Custodial Interviews

- A. Miranda warnings should generally not be given unless a suspect is under arrest or deprived of freedom in some significant way. Routine questioning of a witness or a suspect may be found to be a custodial interview and require the officer to advise persons of the Miranda warnings if:
  - 1. The suspects believe they are not permitted to leave.
  - 2. Intimidating circumstances exist, such as putting the suspect in the back of a patrol car, the presence of a number of armed officers in the immediate area, etc.
- B. If Miranda warnings are not given in these situations, statements made by the suspect questioned may be held inadmissible by the court.
- C. Officers are not required to advise a suspect of the Miranda warnings when the suspect will be issued a summons at the scene, is permitted to leave, and is not detained for interview purposes.

II. Miranda Warnings and Custodial Interviews

- A. Miranda warnings are required in all felony and misdemeanor cases when a suspect is under arrest or when deprived of freedom of action in any significant way; Miranda warnings must be given before the interview takes place.
- B. An interview is questioning by an officer for any purpose other than obtaining identifying information (i.e., name, address, date of birth, etc.).
- C. Officers will use PD 381, Legal Rights Advice Form (Attachment A), whenever possible when advising a suspect of the Miranda warnings.
- D. Officers may use PD 707, Statement Form (Attachment B), when taking statements from the suspect being interviewed.
  - 1. The suspect should read the finished statement and initial each page, all corrections, and sign the statement to indicate approval of what was written.
  - 2. A statement that is hand written will indicate whether it was an officer who wrote it or the suspect was writing his own statement. In a statement where both officer and suspect wrote parts of the statement, each section will note the writer's identity.
  - 3. If a PD 707 is not used by the officer when taking a statement from the suspect, the officer will make every effort to ensure the statement is recorded.
- E. If the arresting officer intends to turn the suspect over to an investigator, the officer will not question the suspect unless there is a need to:
  - 1. Recover evidence that would otherwise be lost.
  - 2. Arrest a co-defendant that may still be at the scene.

3. Save a life or protect a person from harm.
- F. The arresting patrol officer is responsible for advising a suspect of the Miranda warnings for patrol officer handled felony cases and for custodial interviews on relevant misdemeanor cases.
- G. Driving Under the Influence
1. Miranda warnings are not required at the time of the field sobriety test, preliminary roadside breathalyzer test (alcosensor), or when asking routine questions.
  2. Miranda warnings are required at the point when the suspect is taken into custody and should be given prior to transporting a suspect to the hospital, Central Booking, or police station.
  3. The officer should inform the suspect that the Miranda warnings give the right to an attorney before and during questioning, but not before or while the breath or blood alcohol test is being administered.
- H. Statements made by suspects after they have been advised of the Miranda warnings and have waived their rights are admissible at trial. However, suspects may invoke their constitutional rights at any time during the interview and questioning must stop immediately. An assertion of these rights may occur when the suspect asks something such as "Didn't you say I could see a lawyer?", or refuses to answer any more questions. The officer may ask a follow-up question to be sure that the suspect is requesting to end the interview, and if that is the suspect's request, all questioning must stop. If the suspect remains in custody, the officer may not question the suspect again about the same offense, but if the suspect initiates a conversation, the officer should readvise the suspect of his or her rights. If the suspect again waives his or her rights, the officer may proceed to question the suspect.
- I. Officers will not continue to question suspects who have invoked their constitutional rights. The only exception to this is if the suspect initiates a further conversation with the officer regarding the offense, is advised of his rights, waives them and gives a statement.
- J. When suspects make inculpatory statements after invoking their constitutional rights, if the officer does not ask follow-up or clarifying questions, these statements are admissible in court.
- K. When suspects make inculpatory statements after invoking their constitutional rights, ***the officer will not instruct them to stop talking.***



### III. When a Suspect Asks to Speak to Officers After Invoking Rights

There are different legal rules for when an officer may interview suspects who have invoked their constitutional rights.

- A. Suspects who invoke their constitutional rights may be interviewed again as to the same offense if not yet represented by an attorney on the charge and so long as they are not in custody.
- B. If a suspect invokes his or her constitutional rights or has legal representation for the charges on which the officer wishes to interview him or her, the officer may not interview the suspect about those charges unless the suspect initiates a conversation with the officer and the officer readvises the suspect of his or her rights.
- C. A defendant who is under arrest will be taken to a magistrate shortly after being arrested. The defendant's initial court appearance is usually scheduled on the first business day following the arrest. The defendant may request an attorney when in front of the magistrate; if the charge is punishable by imprisonment the defendant may be required at the initial court appearance to either request a court appointed attorney or arrange to personally hire an attorney.
  - 1. Once the defendant has requested an attorney in front of the magistrate or at the initial court appearance, even if this is done simply by the formality of signing a financial inquiry form for the purpose of obtaining a court appointed lawyer, the defendant may not be questioned about this disputed offense nor about any other offense so long as the defendant is in custody.
  - 2. The only exception to this rule is if the defendant initiates a conversation with the officer about the offense or offenses and makes a clear and complete waiver of constitutional rights before any questioning takes place.

### IV. Juvenile Interviews (CALEA 44.23)

If the officer cannot contact the parents or legal guardian of the juvenile who needs to be interviewed, the officer will proceed to advise the juvenile of the Miranda warnings, taking special care to ensure that the juvenile understands the Miranda warnings. The officer must document efforts both to reach the juvenile's parents or legal guardian, and to explain Miranda warnings to the juvenile.

#### Related Documents

- 1. G.O. OPR-320: Driving Under the Influence (DUI)
- 2. G.O. OPR-720: Juveniles
- 3. G.O. OPR-455: Shoplifting

## Attachments

- A. PD 381, Legal Rights Advice Form
- B. PD 707, Statement Form



## NORFOLK POLICE DEPARTMENT LEGAL RIGHTS ADVICE FORM

DATE \_\_\_\_\_, 20\_\_\_\_

- (1) Do you understand that you have the right to remain silent?
- \_\_\_\_\_
- (2) Do you understand that any statement you make may be used as evidence against you in a court of law?
- \_\_\_\_\_
- (3) Do you understand that you have a right to talk to a lawyer and to have the lawyer present during all questioning, if you so desire?
- \_\_\_\_\_
- (4) Do you understand that if you cannot afford to hire a lawyer, a lawyer will be appointed to represent you and be present during all questioning, if you so desire?
- \_\_\_\_\_
- (5) The above rights have been fully explained to me, and I sign this paper with complete understanding of them.
- \_\_\_\_\_
- (6) I further state that I waive these rights and desire to make a statement.
- \_\_\_\_\_
- (7) This statement is completely free and voluntary on my part without any threat or promise from anyone.

Witness \_\_\_\_\_

Signature of Person Being Advised of Rights

Witness \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

\_\_\_\_\_  
Exact Location



PD 707

**NORFOLK POLICE DEPARTMENT  
STATEMENT FORM**

Statement of \_\_\_\_\_  
as given to \_\_\_\_\_  
in the \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_  
in reference to \_\_\_\_\_  
\_\_\_\_\_

Q. What is your full name?

A. \_\_\_\_\_

Q. How old are you?

A. \_\_\_\_\_

Q. How far did you go in school?

A. \_\_\_\_\_

Q. Can you read and write?

A. \_\_\_\_\_

Q. Where do you live?

A. \_\_\_\_\_

Q. Where are you employed?

A. \_\_\_\_\_

Q. I show you Norfolk Police Department Legal Rights Advice Form PD 381, and ask you if you have read this form and if you understand your rights?

A. \_\_\_\_\_

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A. \_\_\_\_\_

A. \_\_\_\_\_

A. \_\_\_\_\_

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Statement of \_\_\_\_\_ in reference to

Q. Is there anything you wish to add to this statement?

A. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q. Is this a true statement to the best of your knowledge and belief?

A. \_\_\_\_\_

Q. Is this statement voluntary and given without threat or promise from any member of the  
Norfolk Police Department or myself?

A. \_\_\_\_\_

STATEMENT ENDED: \_\_\_\_\_

\_\_\_\_\_  
DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_